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(5) To the extent that provisions of laws, other regulations, and PBGC enforcement policies differ from the provisions of this part, those provisions of law, other regulations, and PBGC enforcement policies apply to the remission or mitigation of fines, penalties, and forfeitures, and to debts arising under ERISA, rather than the provisions of this part.

(c) *Additional policies and procedures.* PBGC may, but is not required to, promulgate additional policies and procedures consistent with this part, the FCCS, and other applicable law, policies, and procedures.

(1) PBGC does not intend this regulation to prohibit PBGC from demanding the return of specific property or the payment of its value.

(2) The failure of PBGC to comply with any provision in this regulation will not serve as a defense to the existence of the debt.

(d) *Duplication not required.* Nothing in this part requires PBGC to duplicate notices or administrative proceedings required by contract, this part, or other laws or regulations.

(e) *Use of multiple collection remedies allowed.* PBGC and other Federal agencies may simultaneously use multiple collection remedies to collect a debt, except as prohibited by law. This part is intended to promote aggressive debt collection, using for each debt all available and appropriate collection remedies. To provide PBGC with flexibility in determining which remedies will be most efficient in collecting the particular debt, these remedies are not listed in any prescribed order.

§ 4903.3 Do these regulations adopt the Federal Claims Collection Standards (FCCS)?

This part adopts and incorporates all provisions of FCCS. This part also supplements the FCCS by prescribing procedures consistent with FCCS, as necessary and appropriate for PBGC operations.

§ 4903.4 What rules apply for purposes of filing with PBGC, determining dates of filings, and computation of time?

(a) *How and where to file.* PBGC applies the rules in subpart A of part 4000 of this chapter to determine permis-

sible methods of filing with PBGC under this part. *See* § 4000.4 of this chapter for information on where to file.

(b) *Date of filing.* PBGC applies the rules in subpart C of part 4000 of this chapter to determine the date that a submission under this part was filed with PBGC.

(c) *Computation of time.* PBGC applies the rules of subpart D of part 4000 of this chapter to compute any time period under this part.

Subpart B—Procedures To Collect Debts Owed to PBGC

§ 4903.5 What notice will PBGC send to a debtor when collecting a debt owed to PBGC?

(a) *Notice requirements.* PBGC will collect debts owed to PBGC. PBGC will promptly send at least one written notice to a debtor informing the debtor of the consequences of failing to pay or otherwise resolve a debt owed to PBGC. The notice(s) will be sent to the debtor at the most current address of the debtor in PBGC's records. Generally, before starting the collection actions described in §§ 4903.6 and 4903.10 through 4903.18 of this part, PBGC will send no more than two written notices to the debtor. The notice will explain why the debt is owed to PBGC, the amount of the debt, how a debtor may pay the debt or make alternate repayment arrangements, how a debtor may review non-privileged documents related to the debt, how a debtor may dispute the debt, the collection remedies available to PBGC if the debtor refuses or otherwise fails to pay the debt, and other consequences to the debtor if the debt is not paid. Except as otherwise provided in paragraph (b) of this section, the written notice(s) will explain to the debtor:

(1) The nature and amount of the debt, and the facts giving rise to the debt;

(2) How interest, penalties, and administrative costs are added to the debt, the date by which payment must be made to avoid such charges, and that such assessments must be made unless excused in accordance with 31 CFR 901.9 (see § 4903.6 of this part);

(3) The date by which payment should be made to avoid the enforced

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collection actions described in paragraph (a)(6) of this section;

(4) PBGC's willingness to discuss alternative payment arrangements and how the debtor may enter into a written agreement to repay the debt under terms acceptable to PBGC (*see* § 4903.7 of this part);

(5) The name, address, and telephone number of a contact person or office within PBGC;

(6) PBGC's intention to enforce collection by taking one or more of the following actions if the debtor fails to pay or otherwise resolve the debt:

(i) *Offset*. Offset the debtor's receipt of Federal payments, including income tax refunds, salary, certain benefit payments (such as Social Security), Federal retirement (*i.e.*, CSRS or FERS), vendor, travel reimbursements and advances, and other Federal payments (*see* §§ 4903.11 through 4903.13 of this part);

(ii) *Private collection agency*. Refer the debt to a private collection agency (*see* § 4903.16 of this part);

(iii) *Credit bureau reporting*. Report the debt to a credit bureau (*see* § 4903.15 of this part);

(iv) *Administrative wage garnishment*. Garnish the debtor's wages through administrative wage garnishment (*see* § 4903.14 of this part);

(v) *Litigation*. Whether PBGC will initiate litigation under 29 U.S.C. 1302 to collect the debt or refer the debt to the Department of Justice to initiate litigation to collect the debt (*see* § 4903.17 of this part);

(vi) *Treasury Department's Financial Management Service*. Refer the debt to the Financial Management Service for collection (*see* § 4903.10 of this part);

(7) That debts over 180 days delinquent must be referred to the Financial Management Service for the collection actions described in paragraph (a)(6) of this section (*see* § 4903.10 of this part);

(8) How the debtor may inspect and copy non-privileged records related to the debt;

(9) How the debtor may request a review of PBGC's determination that the debtor owes a debt to PBGC and present evidence that the debt is not delinquent or legally enforceable (*see* §§ 4903.11(c) and 4903.12(c) of this part);

(10) How a debtor who is an individual may request a hearing if PBGC intends to garnish the debtor's private sector (*i.e.*, non-Federal) wages (*see* § 4903.14(a) of this part), including:

(i) The method and time period for requesting a hearing;

(ii) That a request for a hearing, timely filed on or before the 15th business day following the date of the mailing of the notice, will stay the commencement of administrative wage garnishment, but not other collection procedures; and

(iii) The name and address of the office to which the request for a hearing should be sent.

(11) How a debtor who is an individual and a Federal employee subject to Federal salary offset may request a hearing (*see* § 4903.13(e) of this part), including:

(i) The method and time period for requesting a hearing;

(ii) That a request for a hearing, timely filed on or before the 15th day following receipt of the notice, will stay the commencement of salary offset, but not other collection procedures;

(iii) The name and address of the office to which the request for a hearing should be sent;

(iv) That PBGC will refer the debt to the debtor's employing agency or to the Financial Management Service to implement salary offset, unless the employee files a timely request for a hearing;

(v) That a final decision on the hearing, if requested, will be issued at the earliest practicable date, but not later than 60 days after the filing of the request for a hearing, unless the employee requests and the hearing official grants a delay in the proceedings;

(vi) That any knowingly false or frivolous statements, representations, or evidence may subject the Federal employee to penalties under the False Claims Act (31 U.S.C. 3729-3731) or other applicable statutory authority, and criminal penalties under 18 U.S.C. 286, 287, 1001, and 1002, or other applicable statutory authority;

(vii) That unless prohibited by contract or statute, amounts paid on or deducted for the debt which are later waived or found not owed to the United

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States will be promptly refunded to the employee; and

(viii) That proceedings with respect to such debt are governed by 5 U.S.C. 5514 and 31 U.S.C. 3716.

(12) How the debtor may request a waiver of the debt, if applicable. *See*, for example, § 4903.6 and § 4903.13(f) of this part.

(13) How the debtor's spouse may claim his or her share of a joint income tax refund by filing Form 8379 with the Internal Revenue Service (*see* <http://www.irs.gov>);

(14) How the debtor may exercise other rights and remedies, if any, available to the debtor under statutory or regulatory authority under which the debt arose.

(15) That certain debtors and, if applicable, persons controlled by or controlling such debtors, may be ineligible for Federal Government loans, guarantees and insurance, grants, cooperative agreements or other Federal funds (*see* 28 U.S.C. 3201(e); 31 U.S.C. 3720B, 31 CFR 285.13, and § 4903.18(a) of this part); and

(16) That the debtor should advise PBGC of a bankruptcy proceeding of the debtor or another person liable for the debt being collected.

(b) *Exceptions to notice requirements.* PBGC may omit from a notice to a debtor one or more of the provisions contained in paragraphs (a)(6) through (a)(16) of this section if PBGC, in consultation with its legal counsel, determines that any provision is not legally required given the collection remedies to be applied to a particular debt.

(c) *Respond to debtors; comply with FCCS.* PBGC should respond promptly to communications from debtors and comply with other FCCS provisions applicable to the administrative collection of debts. *See* 31 CFR part 901.

§ 4903.6 How will PBGC add interest, penalty charges, and administrative costs to a debt owed to PBGC?

(a) *Assessment and notice.* PBGC will assess interest, penalties and administrative costs on PBGC debts in accordance with the provisions of 31 U.S.C. 3717, 31 CFR 901.9 and other applicable requirements. Administrative costs, including the costs of processing and handling a delinquent debt, will be de-

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termined by PBGC. PBGC will explain in the notice to the debtor how interest, penalties, costs, and other charges are assessed, unless the requirements are included in a contract or other legally binding agreement.

(b) *Waiver of interest, penalties, and administrative costs.* Unless otherwise required by law, regulation, or contract, PBGC will not charge interest if the amount due on the debt is paid within 30 days of the date from which the interest accrues. *See* 31 U.S.C. 3717(d). To the extent permitted by law, PBGC may waive interest, penalties, and administrative costs, or any portion thereof, in appropriate circumstances consistent with the FCCS.

(c) *Accrual during suspension of debt collection.* In most cases, interest, penalties and administrative costs will continue to accrue during any period when collection has been suspended for any reason (for example, when the debtor has requested a hearing). PBGC may suspend accrual of any or all of these charges in appropriate circumstances consistent with the FCCS.

§ 4903.7 When will PBGC allow a debtor to pay a debt owed to PBGC in installments instead of a lump sum?

If a debtor is financially unable to pay the debt in a lump sum, PBGC may accept payment of a debt in regular installments, in accordance with the provisions of 31 CFR 901.8.

§ 4903.8 When will PBGC compromise a debt owed to PBGC?

If PBGC cannot collect the full amount of a debt owed to PBGC, PBGC may compromise the debt in accordance with the provisions of 31 CFR part 902.

§ 4903.9 When will PBGC suspend or terminate debt collection on a debt owed to PBGC?

If, after pursuing all appropriate means of collection, PBGC determines that a debt owed to PBGC is uncollectible, PBGC may suspend or terminate debt collection activity in accordance with the provisions of 31 CFR part 903. Termination of debt collection activity by PBGC does not discharge the indebtedness.